

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CRIMINAL NO. 00-722
 : CIVIL NO. 03-3089
 v. :
 :
ROBERT GOFF :

MEMORANDUM AND ORDER

McLAUGHLIN, J.

March , 2004

Robert Goff was indicted by a Grand Jury on December 6, 2000, for conspiracy to distribute cocaine base, three counts of distribution of cocaine base, and three counts of distribution of cocaine base within 1,000 feet of a school. Mr. Goff pled guilty, pursuant to a cooperation plea agreement, on May 18, 2001, to the conspiracy charge and one of the three counts charging distribution of cocaine base within 1,000 feet of a school.

The Court conducted a sentencing hearing on May 9, 2002. At that time, defense counsel explained to the Court that the defendant had tried to cooperate but that he had not been able to assist the government enough to have the government file a 5K1.1 motion. Defense counsel expressed the hope that his client would be able to cooperate in the future and that a motion would be filed under Rule 35 of the Federal Rules of Criminal

Procedure. The Court then sentenced the defendant to the bottom of the guideline range, 135 months.

Mr. Goff raises three issues in his petition for writ of habeas corpus: (1) he was entrapped by the Drug Enforcement Administration; (2) the sale in a school zone was a technical violation of the law and not a substantive offense because he lives across the street from the school; and, (3) his counsel was ineffective because the petitioner was coerced into accepting a plea agreement without a full explanation of his trial rights and potential liabilities.

By pleading guilty, the petitioner waived the right to raise defenses such as entrapment or sufficiency issues such as whether the location of the offense qualifies as a school zone. See, e.g., United States v. Busley, 523 U.S. 614, 621 (1988); United States v. Broce, 488 U.S. 563, 574; Tollett v. Henderson, 411 U.S. 258, 267 (1973). The only appeal from a guilty plea is a challenge to the voluntariness or intelligence of the plea. As to the third ground for relief, the defendant failed to raise on direct appeal any issue about the voluntariness and intelligence of his plea. He, therefore, has waived the right to raise this issue in a § 2255 petition unless he is first able to demonstrate either "cause" and actual "prejudice" or that he is "actually innocent." Busley, 523 U.S. at 622.

The final claim that Mr. Goff raises that may be raised in a habeas petition is that his counsel was ineffective because his attorney coerced him into pleading guilty and failed to make changes to the presentence report. Mr. Goff's allegations, however, are belied by the transcript of the plea hearing and sentencing hearing. At the plea hearing, the Court conducted a thorough colloquy which included asking the petitioner a series of questions to insure his intelligent and voluntary waiver of various rights and entry of a guilty plea. One of those questions specifically asked if he was coerced in any way to change his plea to guilty. Mr. Goff denied that he was. Mr. Goff also said at the hearing that he was satisfied with his counsel and that they had spoken numerous times. At the sentencing hearing, the petitioner stated that he had reviewed the presentence report and had no objections to it. At the sentencing hearing, Mr. Goff apologized for his criminal behavior.

For these reasons, Mr. Goff's motion will be denied. An appropriate order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. 00-722
	:	CIVIL NO. 03-3089
v.	:	
	:	
ROBERT GOFF	:	

ORDER

AND NOW, this ____ day of March, 2004, upon consideration of defendant's Petition for Habeas Relief Pursuant to 28 U.S.C. § 2255 and the government's response thereto, it is hereby ORDERED that the petition is DENIED.

IT IS FURTHER ORDERED that the defendant having failed to make a substantial showing of the denial of a constitutional right, there is no ground to issue a certificate of appealability.

BY THE COURT:

MARY A. McLAUGHLIN, J.